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BEFORE THE

# Federal Communications Commission

WASHINGTON, D.C.

In the Matter )

Implementation of Section 309(j)  
of the Communications Act )

Competitive Bidding )

PP Docket No. 93-253

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## COMMENTS OF AMSC SUBSIDIARY CORPORATION

AMSC Subsidiary Corporation ("AMSC") hereby submits comments in response to the Notice of Proposed Rule Making ("NPRM") in this proceeding.<sup>1/</sup> As discussed below, competitive bidding is not appropriate for Mobile Satellite Service ("MSS") systems licensed by the FCC, which must share the limited spectrum resource with foreign systems. Accordingly, the Commission should permit the pending applicants for MSS authorizations in the Above 1 GHz MSS proceeding a full opportunity to resolve any mutual exclusivity that may exist among them before considering competitive bidding.<sup>2/</sup>

### Background

AMSC is one of six applicants for authority to operate an MSS system in all or part of the 1610-1626.5/2483.5-2500 MHz

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- 1/ Notice of Proposed Rule Making, PP Docket No. 93-253, FCC 93-455 (rel. October 12, 1993).
- 2/ The Above 1 GHz MSS proceeding is the Commission's name for the proceeding in which it is considering applications to construct MSS systems in the 1610-1626.5/2483.5-2500 MHz bands.

bands.<sup>3/</sup> AMSC has requested these additional frequencies because it is unlikely that there will be sufficient spectrum in the bands assigned to AMSC (1544-1559/1645.5-1660.5 MHz) to support the second and third satellites.<sup>4/</sup> More than thirty mobile satellite systems are planned or are operational in the bands assigned to AMSC, and the U.S. must coordinate use of the bands with many of these systems (e.g. Inmarsat, Mexico, Canada), thereby reducing the spectrum available to AMSC.

In January 1993, the Commission established a Negotiated Rulemaking Committee to develop service rules and technical standards for operation within the 1610-1626.5/2483.5-2500 MHz bands. After numerous meetings among the applicants and other interested parties, the group developed a Final Report that concluded that sharing among the applicants is feasible. See "Report of the MSS Above 1 GHz Negotiated Rulemaking Committee," CC Docket No. 92-166 (April 6, 1993).

New section 309(j) of the Communications Act gives the Commission authority to choose from among two or more mutually exclusive applications for initial licenses by competitive bidding, or by lottery in the case of applications accepted for filing before July 26, 1993.<sup>5/</sup> In the NPRM, the Commission

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<sup>3/</sup> See File Nos. 15/16-DSS-MP-91 (June 3, 1991). The Commission has proposed that the 1610-1626.5 MHz/2483.5-2500 MHz bands be allocated to the Mobile Satellite Service. Notice of Proposed Rulemaking, 7 FCC Rcd 6414 (1992).

<sup>4/</sup> AMSC is the U.S. MSS licensee. See Memorandum Opinion, Order and Authorization, 4 FCC Rcd 6041 (1989); Final Decision on Remand, 7 FCC Rcd 266 (1992), aff'd sub nom., Aeronautical Radio, Inc. v. FCC, 983 F.2d 275 (D.C. Cir. 1993).

<sup>5/</sup> New Section 309(j) was part of the Omnibus Budget Reconciliation Act of 1993. The Commission proposes limiting auctions to those radio communications services that principally use the spectrum to provide service to subscribers for compensation.

seeks comment on whether MSS licenses in the 1610-1626.5/2483.5-2500 MHz bands should be awarded by auction or lottery.

#### Discussion

Competitive bidding is not appropriate for awarding mobile satellite service licenses in the 1610-1626.5/2483.5-2500 MHz bands.<sup>6/</sup> Mobile satellite systems must coordinate the use of spectrum internationally with other systems seeking to operate on the same frequencies. For example, AMSC is aware of at least four other administrations (Inmarsat, Canada, Tonga and Saudi Arabia), in addition to the U.S., that have already Advance Published MSS systems in the 1610-1626.5/2483.5-2500 MHz bands. Based on the experience of AMSC with the international coordination of the bands it has been assigned, it is likely that MSS licensees will end up with far less spectrum than is purchased by auction. Thus, MSS licensees would not get what they paid for in an auction because no one knows the amount of spectrum that will be available once the coordination process is complete. Any attempt to place a market value on the spectrum would be purely speculative.

A more sound approach would be for the Commission to make every attempt to allow the pending MSS applicants to resolve among themselves the technical issues that cause mutual exclusivity. This will result in more licensees, more

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<sup>6/</sup> Though these comments address only the 1610-1626.5/2483.5-2500 MHz bands, as requested in the NPRM, AMSC's basic position would apply to other new MSS bands that may be available in the future, including 1970-1990/2160-2180 MHz.

competition, and a wider diversity of services available to the public.

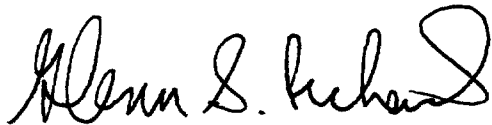
The Negotiated Rulemaking Committee made substantial progress toward resolving sharing issues not only among the applicants but between the applicants and other services operating in the 1610-1626.5/2483.5-2500 MHz bands. Given the uncertainty of auctions or lotteries, it is likely that with time the MSS applicants will fully resolve the mutual exclusivity issue with a spectrum sharing proposal that is fair and beneficial to all. Thus, the Commission should not at this time decide to award these licenses by auction.

Conclusion

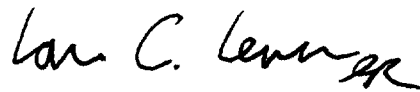
For the above stated reasons, AMSC respectfully urges the Commission not to auction or lottery licenses in the 1610-1626.5/2483.5-2500 MHz bands but instead give the MSS applicants an opportunity to resolve the issue of mutual exclusivity.

Respectfully submitted,

AMSC SUBSIDIARY CORPORATION



Bruce D. Jacobs  
Glenn S. Richards  
Fisher, Wayland, Cooper & Leader  
1255 23rd Street, N.W.  
Suite 800  
Washington, D.C. 20037  
(202) 659-3494



Lon C. Levin  
Vice President and  
Regulatory Counsel  
AMSC Subsidiary Corporation  
10802 Park Ridge Boulevard  
Reston, Virginia 22091  
(703) 758-6000

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